IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 1857 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/06/2004 in WP NO : 4211 OF 2002 on the file of the High Court.)

Between:

1. A.P. Power Generation Corporation

rep by Chairman & Managing Director Vidyut Soudha,

Hyderabad
2. The AP Power Generation rep.by

The Chief Engineer Thermal Power Station,

Ibrahimpatnam Krishna District

.... APPELLANTS

AND

1. The Assistant Commissioner of Labour, Vijayawada
2. D. Paparao S/o Sri D. RAma Murthy
   R/o Ibrahimpatnam, Krishna District

...RESPONDENTS

Counsel for the Appellant: MR.S.RAVINDRANATH

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondents 2: Mr G.V.Shivaji

The Court made the following:

JUDGMENT: **(PER HON'BLE SRI JUSTICE G.BIKSHAPATHY)**

The Writ Appeal is challenged against the order dated 16.06.2004 passed by the learned single Judge in W.P. No. 4211 of 2002.

2. The matter relates to absorption of the contract employees under the appellant establishment. The order of the Assistant Commissioner of Labour, Vijayawada dated 15.02.2001 was challenged wherein the Assistant Commissioner of Labour, Vijayawada held that the employee worked in the category of works, which was abolished by the appellant under the provisions of the Contract Labour Abolition Act. The learned single Judge holding that Mandamus cannot be issued to interfere with the report submitted by the Assistant Commissioner of Labour, Vijayawada, dismissed the Writ Petition by order dated 16.06.2004. As against the Writ Petition the present Writ Appeal has been filed by the department.

4. The learned counsel for the Appellant Mr S.Ravindranath submits that the findings of the Assistant Commissioner of Labour, Vijayawada that the respondent No.2 worked as an electrician is wholly misconceived, and that the Assistant Commissioner of Labour, Vijayawada did not consider the matter in a proper perspective. The learned counsel also would submit that in view of the recent decision of the Supreme Court in **STEEL AUTHORITY OF INDIA v. NATIONAL UNION WATER FRONT WORKERS**, the respondents couldn't be absorbed. We

find none of these contentions were raised before the learned single Judge. The report of the Assistant Commissioner of Labour, Vijayawada was under challenge since the learned single Judge refused to interfere with the orders, the Writ Petition was dismissed. The apprehension of the learned counsel for the Appellant is that there was a specific direction to absorb him in the category of electrician and that the matter ought to have been left to the discretion of the authorities concerned. While, we do not find any such direction having been issued in that regard, we leave it open to the authorities concerned to consider the case of the petitioner if not already considered for absorption in any of the suitable post, if they are available for absorption.

5. Subject to the above observation the Writ Appeal is dismissed. No costs.

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G. BIKSHAPATHY,J

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B.SESHASAYANA REDDY ,J

kvrm/bcj

To

1. The Assistant Commissioner of Labour, Vijayawada, Krishna District.

2. 2 CCs to GP for Labour, High Court of A.P., Hyderabad

(OUT)

3. 2 CD copies.